

REMARKS

This Reply is responsive to the non-final office action of November 25, 2008, (hereinafter “Office Action”)¹ and is accompanied by a petition for extension of time of one month. Claims 1-44 were presented for examination and were rejected. No claims are added or canceled or amended. Claims 1, 17, 18, 19, 34, 35, 36, 39, 43 and 44 are independent claims. Claims 1-44 are pending.

Claims 1, 4-8, 11, 12, 16-19, 21-25, 27-29, and 33-38 are rejected under 35 U.S.C. §103(a) as being anticipated by Menon et al. (U.S. H2079, hereinafter “Menon”) in view of Goode et al. (U.S. 6,826,197, hereinafter “Goode”). Claim 2 is rejected under 35 U.S.C. §103(a) as being unpatentable over Menon and Goode in view of Hunter et al. (U.S. 4,751,697, hereinafter “Hunter”). Claims 3, 13-15, 20, 30-32, 43 and 44 are rejected under 35 U.S.C. §103(a) as being unpatentable over Menon and Goode in view of Coombes et al. (U.S. 6,650,908, hereinafter “Coombes”). Claims 10 and 26 are

¹ The Office Action may contain a number of statements characterizing the cited references and/or the claims which Applicant may not expressly identify herein. Regardless of whether or not any such statement is identified herein, Applicant does not automatically subscribe to, or acquiesce in, any such statement. Further, silence with regard to rejection of a dependent claim, when such claim depends, directly or indirectly, from an independent claim which Applicant deems allowable for reasons provided herein, is not acquiescence to such rejection of that dependent claim, but is recognition by Applicant that such previously lodged rejection is moot based on remarks and/or amendments presented herein relative to that independent claim.

rejected under 35 U.S.C. §103(a) as being unpatentable over Menon and Goode in view of Wilson (U.S. 5,185,796, hereinafter “Wilson”). Claims 39-42 are rejected under 35 U.S.C. §103(a) as being unpatentable over Menon in view of Goode and in view of Coombes further in view of Hunter.

Applicant respectfully traverses these rejections. Each rejection is based, at a minimum, on the combination of Menon and Goode and, in most cases, is based on further combination with one or more other cited references. But, Menon and Goode, taken individually or in any reasonable combination, do not disclose or suggest the subject matter of Applicant’s claims, and the other references do not cure this deficiency of the Menon and Goode combination. Consider, for example, claim 1:

A patch panel system, comprising: an interface unit that includes a plurality of ports configured to connect to a plurality of user devices, the interface unit being configured to: receive one or more analog signals from a user device of the plurality of user devices via a port of the plurality of ports, generate a packet from the one or more analog signals, and transmit the packet; and a radio unit configured to: receive the packet, convert the packet to a depacketized radio signal representing only extracted payload bits, and transmit the depacketized radio signal representing only extracted payload bits over a radio channel. (Claim 1, emphasis added)

Claim 1, clearly calls for a patch panel system which comprises, *inter alia*, a radio unit which is configured to *inter alia* “*convert the packet to a depacketized radio signal representing only extracted payload bits, and transmit the depacketized radio signal representing only extracted payload bits over a radio channel.*” (italics added) As admitted in the Office Action: “Menon et al. do not disclose depacketizing the radio signal representing only extracted payload bits.” (Office Action, page 3) Applicant agrees.

Clearly, Menon teaches a wireless communication between its subscriber or subscribers 12 and its wireless router 14: “Subscriber 12 is operable to communicate with wireless router 14 over a wireless interface 22.” (Menon, col. 1, lines 42-44; Figs. 1-2; emphasis added) The important point to observe is that wireless communication necessarily takes place in Menon only through a router.

A router’s function is to relay a message received at the router. The router sends the message down a path leading to the message’s final destination. That path is selected by the router to be the most-efficient, or shortest or otherwise optimum path in the network available at that particular moment for that particular message. That is the router’s job. In order for the router to function in this manner it must have access to a variety of network information including the intended final destination for that message. That destination information is disclosed to the router by way of its being included in that message received by the router, and the destination information is included in a portion of that message known as the “header” portion. That destination information cannot be included in the payload or data portion of the message because the payload portion, by definition, does not include non-data information. The payload simply does not include a destination address. Since the wireless message in Menon requires a header containing destination information to satisfy the wireless router 14 constraint that Menon imposes, the only kind of message that can be wirelessly transmitted in Menon is a packetized message.

In view of this explanation, it is clear that any other patent reference that may teach radio transmission of pure payload data, such as payload data derived from de-

packetization of a packet could not be combined with Menon. Indeed, such a hypothetical combination would attempt to wirelessly transmit pure payload data to Menon's router 14 which, being devoid of destination address information, would leave the router without sufficient information to do its routing job. The router would not know where to send the pure payload data. This attempt to make this hypothetical combination would thus require removal of router 14. This would be a radical change to the principle of operation of Menon which, in fact, would make Menon inoperable because Menon is dependent upon operation of a router at that location in its "packet-based wireless local loop" (title).

"If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)." M.P.E.P. § 2143.01. Moreover, "[i]f the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)." M.P.E.P. § 2143.01. Here, the proposed modification/combination of the prior art would change the principle of operation of the prior art invention. Also, the proposed modification would render the prior art invention unsatisfactory for its intended purpose.

Applicant submits that the foregoing explanation is sufficient to show that a *prima facie* case of obviousness has not been established based on Menon in combination with any reference. However, in the interest of thoroughness, consider the Goode disclosure

which is relied-upon to cure this deficiency in Menon. The Office Action says:

“However, Goode et al. disclose a transmission system that converts a packet to a depacketized radio signal representing only extracted payloads (Column 3, lines 25-41).” (Office Action, page 3; emphasis added) Applicant respectfully disagrees with the Office Action view of Goode because Goode does not disclose or suggest a radio signal. In fact, the term “radio” does not appear, even once, in Goode. If further fact, the term “wireless” does not appear, even once, in Goode. Therefore, without the term radio or wireless appearing in Goode, Applicant disputes the Examiner’s interpretation that Goode discloses a radio signal, as quoted herein. Admittedly, Goode does disclose a packet having header and payload sections, as shown in its Fig. 1. And, the cited section in Goode does discuss use of a depacketizer to extract payload information. But, a packet, even a depacketized packet or payload, is not necessarily a radio signal.

Therefore, even if Menon and Goode were combinable, (*and Applicant does not agree that they are combinable*), and even if the hypothetical result were not inoperability of Menon as shown above (*but inoperability would result*), since Menon, admittedly, does not disclose a depacketized radio signal representing only extracted payload bits, and since Goode does not disclose or suggest a radio signal at all, much less a depacketized radio signal, then any reasonable combination of Menon and Goode together cannot possibly disclose or suggest: “a radio unit configured to … convert the packet to a depacketized radio signal representing only extracted payload bits, and transmit the depacketized radio signal representing only extracted payload bits over a radio channel” as recited in claim 1.

The other references, Hunter, Coombes and Wilson were cited for reasons unrelated to the issued discussed above. These other references do not cure this deficiency of Menon and Goode.

Therefore, for reasons given above, a prima facie case of obviousness has not been established against claim 1 and the rejection of claim 1 under 35 U.S.C. § 103(a) should be withdrawn and the claim allowed.

Each of the other independent claims, namely claims 17, 18, 19, 34, 35 36, 39, 43 and 44 recites the same, or similar, limitation as that discussed above with respect to claim 1 and each is allowable for reasons given above with respect to claim 1.

All of the dependent claims are likewise allowable, at least for reasons based on their dependencies from allowable base claims.

In view of the above, Applicant respectfully requests that the rejections of all claims be withdrawn and the claims allowed.

Applicant reserves its rights to present additional arguments against Menon and Goode, as well as all of the other cited references, relative to other independent and dependent claim elements, if the Examiner does not pass this case to issue.²

² As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, Official Notice, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such assertions/requirements in the future.

CONCLUSION

Reconsideration and allowance are respectfully requested based on the above amendments and remarks.

If there are any remaining issues or if the Examiner believes that a telephone conversation with Applicant's attorney would be helpful in expediting the prosecution of this application, the Examiner is invited to call the undersigned at 508-625-1323

To the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, the fee for which should be charged to deposit account number 07-2347. Please charge any other fees due, or credit any overpayment made to that account.

Respectfully submitted,

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